

board was required to meet and decide on the basis of voluminous submissions at the end of it all. Though we cannot tolerate delays such as the fifteen months which apparently exist in the public sector in Michigan, framers of the law must realize that it will take considerable time and expense. This is another reason why arbitration should be the rare exception and not the rule at the end of collective bargaining.

Yet there is one other consideration. My view is that final-offer baseball arbitration, where the arbitrator is obliged to select one package offer or the other, is the best approach because it creates uncertainty which promotes voluntary negotiation. But because there is much uncertainty for the arbitrator as well as for the parties, I am of the view that his award should appear initially in the form of recommendations and that the parties should have 10–14 days to negotiate with the arbitrator acting as a mediator. If the parties cannot resolve their differences in that time, the recommendations within the parameters of the initial award would be final and binding. In this way the real potential for arbitral error is diminished, and the integrity of the process maintained.

There are a few other matters that I think you should consider which should be a vital part of labor law reform, and yet are not covered in EFCA. First, Congress should encourage rulemaking in lieu of adjudication so as to avoid repetitive and wasteful litigation which enhance cost and delay. My Board attempted to do this in the 1990s and was stopped by appropriations riders fashioned by the Republican Congress. A different political environment exists this time around and Congress and the Board should take full advantage of the opportunity to resolve disputes expeditiously and sensibly.

Second, the amount of litigation before the Board can be reduced if Congress unfreezes the Board's jurisdictional guidelines and thus decreases the volume of cases that come before it by taking into account fifty years of inflation. The freeze has resulted in NLRB assertion of jurisdiction over very small employers. Again, the Republican Congress in the 1990s insisted that I withdraw Board jurisdiction when I was Chairman but, as I pointed out to them, only Congress can change these statutory provisions which were enacted a half-century ago and which have left Board jurisdiction in terms of dollar values the same as it was then—even though the dollar is worth one-seventh of what it was at that time.

But at this time, Congress can initiate action on this which will both deregulate labor-management relations for small employers in some jurisdictions and, since state law should be followed, also allow the states to enact more expansive laws protecting union organizing. This promotes the kind of laboratory conditions of which Justice Brandeis spoke a century ago and relieves small business from the federal regulation under which it currently lives. Here Congress can and should take the lead as the 1959 amendments require.

Third, labor law reform must take into account that it is not simply employers who are promoting delay before the NLRB and the courts at this juncture—in many instances it has been the Board itself as cases have languished in the black hole in Washington headquarters for half a decade or more while workers awaited reinstatement and back pay. As Professor G. Calvin MacKenzie of Colby College has noted, much of this is attributable to the “transcendent loss of purpose in the appointment process” at the NLRB where appointees “come from con-

gressional staffs or think tanks or interest groups—not from across the country but from across the street: interchangeable public elites, engaged in an insider's game.” The packaging and “batching” of appointees was unknown prior to 1994 and has become so embedded in the appointment process that even President Obama has batched a Republican Senate Labor Committee policy director with his two Democratic nominees.

This approach should be abandoned. It fosters delay through the reticence of decision-makers who procrastinate, concerned about congressional reaction. If reappointments were barred, this tendency would be diminished. At the same time, Congress should extend the term of office to eight years, reduce the number of Board members from five to three so as to eliminate the potential for individual Board member obstruction (with the reduction of cases obtained through withdrawal of jurisdiction this can work more easily), and explicitly provide that when a Board member's term expires he or she can serve no longer. In this way we will attract the best people who will serve for the very best reasons.

Finally, one of the most interesting developments in recent years relates to alternative dispute resolution mechanisms devised by the parties, particularly as a result of their frustration about the National Labor Relations Board and its ability to function promptly. One classic example of this approach is set forth in the procedures devised by First Group America to deal with complaints involving freedom of association issues arising out of union organizational campaigns or relating to discrimination on account of union activity. The First Group machinery provides that an Independent Monitor (I have functioned in that capacity for the past 18 months) is to make public recommendations regarding such complaints within 30–60 days of the time that they are filed. Most recommendations have been accepted and the program has been praised by both sides. The process is able to move with dispatch because there is simply a provision for investigation rather than a full-fledged hearing. Congress ought to explicitly encourage parties to devise such procedures, and their existence may provide guidance with regard to how lengthy proceedings before the Board and the courts—which are frequently excessively time-consuming or wasteful—can be abbreviated.

CONCLUSION

The job of labor law reform is an important one and the Employee Free Choice Act has done more than any other mechanism in recent years to get this issue front and center. The chance to engage in this process does not come often and thus it is important that the country gets it right this time around.

EFCA is right on the mark when it comes to sanctions, damages, penalties, and contempt proceedings. It has gone off course in connection with card check—but fortunately through expedited and postal elections as well as union access to private property that matter can be addressed with some measure of success. On arbitration, EFCA got us part of the way there, but much more needs to be done and revised.

The reform initiative provides a great opportunity to have a new look at some of the problems that have plagued the Board and the Act for far too long, i.e., the appointments process and its relationship to delay, the failure or inability to borrow from voluntary machinery, and the need to get small employers beyond the reach of the Act either for the purpose of deregulation or for, in

those jurisdictions that want it that way, more expansive protection than is provided by the National Labor Relations Act even as revised in 2009—if it is to be.

This is the beginning of a great debate. It is a debate which necessarily involves labor and management, Democrats and Republicans, and the result must be not only sensible in content but the product of some measure of consensus and compromise.

TRIBUTE TO 2009 SCRIPPS NATIONAL SPELLING BEE WINNER
KAVYA SHIVANSHANKAR

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 2009

Mr. MOORE of Kansas. Madam Speaker, I rise today in honor of a constituent and resident of Olathe, Kansas, who recently achieved international acclaim. On May 27, 2009, during her fourth appearance in the national finals, 13-year-old Kavya Shivashankar won the Scripps National Spelling Bee in Washington, D.C.

In her first year of competition, Kavya finished an amazing 10th place in the 2006 national competition. While most of us would have been thrilled that we reached the finals of a prestigious national contest, let alone placed so high among such an elite group, that was not true for Kavya. A typical 9-year-old might have gladly reclaimed the hundreds of hours of practice and preparation time and used it instead for their own enjoyment. Instead, Kavya returned to her spelling studies, competed again in 2007 and this time finished in 8th place.

Still not satisfied, Kavya returned again in 2008 and was considered one of the favorites to win the championship. Kavya was one of the “Final Four,” finishing in 4th place. Again, most of us would have been thrilled to be a national finalist three times—that would look pretty good on a college application in a few years! Instead, Kavya continued studying with her father and devoted much of her free time to preparation. And, this was in addition to her regular homework, music lessons and time with her family.

This year, Kavya was in her last year of eligibility. Many of Kavya's fans, including many of my own staff members who look forward to cheering her on every year, worried that her heart would be broken in her last attempt. Instead, Kavya taught all of us a lesson in persistence and hard work. Poised and confident throughout the competition, she calmly wrote out a word in her hand that I do not even know how to pronounce—Laodicean—before spelling it correctly into the microphone and sealing her victory.

I am perhaps even prouder of how she has handled her success. Immediately following her victory, Kavya did a round of media interviews all around the country that would make a presidential candidate's head spin. Always

smiling, confident and polite, she repeatedly showed the world why she is a true champion. She was a wonderful representative of her family, her school (California Junior High School), her hometown (Olathe, Kansas), her sponsor (The Olathe Daily News), the state of Kansas and, indeed, our entire country.

In addition to the pride and confidence she has from achieving her goal, she also won scholarship money and prizes totaling \$40,000, which will come in handy, as Kavya aspires to become a neurosurgeon. Her interest in medicine was sparked when she prepared for—what else?—a spelling bee of medical terminology.

We also learned a good spelling lesson from her family's identical t-shirts, worn the day after the tournament, which said, "How do you spell 'champion?' S-H-I-V-A-S-H-A-N-K-A-R."

Finally, I would like to read into the RECORD an open letter written by Kavya, which was published in The Kansas City Star on June 21, 2009, and clearly shows the qualities that allowed her to reach this remarkable goal and that make Kavya such an inspiration to us all!

What an incredible ride it has been for me in my quest for the spelling bee championship! I have been participating in the Scripps National Spelling Bee since 2006. I went from 10th to 8th to 4th place, and then I was finally able to take the much coveted trophy in 2009.

I loved going to Washington, D.C., each year during the Memorial Day week! Bee Week has always been so much fun for me because I got to meet the contestants and socialize.

Many of them are returning spellers whom I looked forward to meeting each year, and some whom I keep in touch with by e-mail. All the regional champions believe in camaraderie and understand that the dictionary, not the other spellers, is their biggest foe.

The sportsmanship everyone has is inspiring. I feel sad that I am not able to participate in any more spelling bees because if you pass eighth grade or if you win the championship, you are not eligible to participate again.

Preparing for spelling bees takes a lot of desire, dedication, effort and time. My technique is to study root words and etymological patterns instead of memorizing.

This kind of preparation has greatly developed my vocabulary and has allowed me to learn so many new words and roots. But I have also learned so much more.

This journey has taught me how to set a goal and achieve it through discipline and hard work. I have also learned how to stay composed under pressure and developed my confidence. It also has really developed my public speaking skills.

After my victory, I was rushed into a whirlwind of media. My family and I traveled to New York so I could appear on "Live! With Regis and Kelly." We then went to Los Angeles for "Jimmy Kimmel Live." Those were both great shows, and I really enjoyed being on them.

When we returned home, a few local TV stations came to greet me at the airport along with some friends. Many more friends and neighbors were lined up on my street to congratulate me, holding up large posters. It was great to know that so many people supported me!

I received many calls, and I was especially thrilled when I received an invitation from the governor of Kansas, and calls and cards from senators and congressmen. It was exciting to know that I had their support and that they were able to take the time to con-

gratulate me. My family and I are expecting an invitation from the White House in the coming months.

I also received a letter from Children's Mercy Hospital inviting me to come to one of its hospitals to visit the neurology department and talk to the patients. This is a great opportunity, and I will be looking forward to more exciting opportunities like that, which will allow me to help the community in any way I can.

I have had a great experience and have learned many valuable lessons to carry on in life. Most importantly, preparing for spelling bees has brought me closer to my family. They have been a great source of support and encouragement throughout the whole journey.

The bonds that have been forged and strengthened through this process mean more to me than any other aspect of my spelling experience.

I am thankful to everyone who has helped and supported me throughout this whole experience, especially everyone in the Kansas City area. My advice to my peers is to follow your dream, and be able to put in the hard work and effort to achieve it.

HONORING CAPTAIN SHAWN WARNEKE OF THE ST. CLOUD CIVIL AIR PATROL FOR RECEIVING THE DISASTER RELIEF COMMENDATION

HON. MICHELE BACHMANN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 2009

Mrs. BACHMANN. Madam Speaker, I rise today to honor Captain Shawn Warneke, a true patriot and a member of the St. Cloud Civil Air Patrol. Capt. Warneke has received the Disaster Relief Commendation ribbon for his extraordinary work and leadership during the severe flooding in North Dakota this spring. I recently supported House Resolution 415 and commended all Civil Air Patrol members for their unprecedented efforts in Fargo and Moorhead, and now it is my privilege to highlight Capt. Warneke's individual contributions that helped lead to the successful sandbagging that saved hundreds of homes.

The devastating floods in the Fargo-Moorhead communities inspired hundreds of volunteers to take time off work and help their neighbors. Capt. Warneke's unique background set him apart from many volunteers. As Lead Security Officer for the Transportation Security Administration at the St. Cloud Regional Airport, Capt. Warneke's experience allowed him to effectively transport, supervise and assist C.A.P. cadets and senior members during the sandbagging efforts. He also helped local citizens with evacuation and provided security to the area.

Capt. Warneke has made service to our nation a daily routine. As the Deputy Commander of his squadron, Capt. Warneke trains the C.A.P. Color Guard. He is a graduate of the Blue Beret Leadership Academy and soon will be certified as an official Civil Air Patrol Mission Pilot. Captain Blaine Pierson, Squadron Commander of the St. Cloud Composite Squadron, said this about Capt. Warneke: "His dedication to Civil Air Patrol, Homeland Security and his country is constantly evidenced by his attention to duty and the responsibilities entrusted to him."

I rise today to honor Capt. Shawn R. Warneke in front of this Congress for his service to his country, as a sign of my appreciation and gratitude. Capt. Warneke has dedicated his life to ensuring freedoms and security for all individuals as a part of our Homeland Security defenses and a volunteer member of the Civil Air Patrol. His commendation ribbon is a fitting display of the compassion with which he carries out those duties every day.

EARMARK DECLARATION

HON. BILL POSEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 2009

Mr. POSEY. Madam Speaker, pursuant to the Republican Leadership standards on earmarks as well as in accordance with Clause 9 of Rule XXI, I am submitting the following information regarding earmarks for my Congressional District as a part of H.R. 3082, Military Construction and Veterans Affairs Appropriations Act, 2010.

Requesting Member: Congressman BILL POSEY—Expressing support for the President's funding level for the Orlando Veterans Hospital.

Project Funding Amount: The President's budget request of \$371,300,000.

Bill Number: H.R. 3082, Military Construction and Veterans Affairs Appropriations Act, 2010

Account: Major Construction

Legal Name of Requesting Entity: Department of Veterans Affairs

Address of Requesting Entity: Department of Veterans Affairs

Description of Request: This funding is equal to the amount proposed by the President in his FY 2010 budget for the Department of Veterans Affairs budget. This will enable the VA to complete the construction of the Veterans Hospital in the Orlando area.

Consistent with Republican Leadership's policy on earmarks, I hereby certify that to the best of my knowledge this request (1) is not directed to any entity or program that will be named after a sitting Member of Congress; (2) is not intended to be used by an entity to secure funds for entities unless the use of the funding is consistent with the specified purpose of the earmark; and (3) meets or exceeds all statutory requirements for matching funds where applicable.

EARMARK DECLARATION

HON. STEVE SCALISE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 2009

Mr. SCALISE. Madam Speaker, pursuant to the Republican Leadership standards on Congressionally-directed project funding, I am submitting the following information regarding project funding I requested for Southeast Louisiana as part of the Fiscal Year 2010 Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act.

Requesting Member: Congressman STEVE SCALISE

Bill Number: Fiscal Year 2010 Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2010